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**VIA ECF**

Honorable Denise Cote, U.S.D.J.  
United States District Court  
Southern District of New York  
500 Pearl Street, Chambers 1040  
New York, NY 10007

**Re: David Barstow, Brian Smith and John McAteer  
v. Fifth on the Park Condo, LLC, et al.  
Civil Action No: 09cv7786 (DLC)**

**Poh Lin Ang, Lin Ping Ang and Carolina Rodriguez  
v. Fifth on the Park Condo, LLC, et al.  
Civil Action No: 09cv7137 (DLC)**

**G. William Hunter and Robyn Hunter  
v. Fifth on the Park Condo, LLC, et al.  
Civil Action No: 09cv7567**

Dear Judge Cote:

This firm represents all of the Plaintiffs in the above-captioned matters.

Please accept this letter in response to Your Honor's Order to Show Cause dated January 29, 2010 as to why the above-referenced actions should not be dismissed as a result of the Court's recent Decision and Order in the related Bodansky (09 Civ. 4651) and Bergen (09 Civ. 6433) matters.

Case 1:09-cv-07137-DLC Document 1-1 Filed 02/22/10 Page 1 of 1

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3 Admitted PA  
4 Admitted CT  
5 Admitted DC  
6 Admitted MA  
7 Admitted MD  
8 Admitted VA  
9 Admitted CA  
10 Admitted FL  
11 Admitted PR  
12 Admitted VI

February 23, 2010

#3259738 (153642.001)



Honorable Denise Cote, U.S.D.J.  
February 23, 2010  
Page 2

Plaintiffs in the Bodansky and Bergen matters have filed Notices of Appeal of the Court's Decision and Order dated January 29, 2010, and resulting judgment entered on January 30, 2010. Copies of the filed Notices of Appeal are annexed hereto as Exhibit A.

The plaintiffs in the Barstow (09-cv-7786), Ang (09-cv-7137), and Hunter (09-cv-7567) matters still pending before your Honor respectfully submit that the most efficient and economic course of action would be to maintain the stay of proceedings in these cases, pending the outcome of the Bodansky and Bergen appeals. If your Honor's Decision and Order is affirmed and there are no further appellate proceedings, then the Court could dismiss these pending actions at that time; however, in the event that the Court of Appeals reverses the decisions in Bodansky and Bergen, staying the matters would save all parties the additional and unnecessary time and expense of re-filing and docketing the actions as well as responding to "renewed" pleadings in the dismissed actions.

Thank you for your courtesies.

Respectfully,

A handwritten signature in black ink, appearing to read "LAWRENCE C. WEINER".

LAWRENCE C. WEINER

LCW:ar  
Encls.

cc: Daniel A. Ross, Esq. (via Email & Reg. Mail)  
Paul J. Hanley, Jr., Esq. (via Email & Reg. Mail)  
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Case 1:09-cv-04651-DLC Document 24 Filed 02/22/2010 Page 1 of 2

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
LOLA BODANSKY, : No. 09 CV 4651 (DLC)  
Plaintiff,

v.  
FIFTH ON THE PARK CONDO, LLC  
EYTAN BENYANIN and  
ROBERT EZRAPOUR,  
Defendants.

**NOTICE OF APPEAL**

U.S. DISTRICT COURT  
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S.D. OF N.Y.

-----X  
STEVE BERGEN and LYNNE  
SCHALMAN, : No. 09 CV 6433 (DLC)  
Plaintiffs,

v.  
FIFTH ON THE PARK CONDO, LLC  
EYTAN BENYANIN and  
ROBERT EZRAPOUR,  
Defendants.

-----X

**NOTICE IS HEREBY GIVEN THAT** Plaintiffs Lola Bodansky, Steve Bergen and Lynne Schalman hereby jointly appeal to the United States Court of Appeal for the Second

Case 1:09-cv-04651-DLC Document 24 Filed 02/22/2010 Page 2 of 2

Circuit pursuant to FED. R. APP. PROC. 3(b)(1) from the Judgment of The Honorable Denise L. Cote, U.S.D.J. that defendants, Fifth on the Park Condo, LLC, Eytan Benyanin, and Robert Ezrapour, are exempt from the Interstate Land Sales Full Disclosure Act's registration and disclosure requirements pursuant to the 100 Lot Exemption, 15 U.S.C. §1702(b)(1) and the Improved Lot Exemption, 15 U.S.C. §1702(a)(2), and dismissing Plaintiffs' claims for rescission of their purchase agreements, return of their deposits and interest, and payment of attorneys' fees, entered in this action on the 30<sup>th</sup> day of January, 2010 (Docket No. 23).

**WILENTZ, GOLDMAN & SPITZER P.A.**  
Attorneys for Plaintiffs Lola Bodansky, Steve  
Bergen and Lynne Schalman

By:

LAWRENCE C. WEINER, ESQ.

Dated: February 22, 2010

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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LOLA BODANSKY,	X	No. 09 CV 4651 (DLC)
Plaintiff,		
 v. 		

FIFTH ON THE PARK CONDO, LLC	.	.
EYTAN BENYANIN and		
ROBERT EZRAPOUR,		

Defendants.	.	.
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**NOTICE OF APPEAL**

U.S. DISTRICT COURT  
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S.D. OF N.Y.

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STEVE BERGEN and LYNNE	X	No. 09 CV 6433 (DLC)
SCHALMAN,		

Plaintiffs,	.	.
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v.	.	.
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FIFTH ON THE PARK CONDO, LLC	.	.
EYTAN BENYANIN and		
ROBERT EZRAPOUR,		

Defendants.	.	.
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Circuit pursuant to FED. R. APP. PROC. 3(b)(1) from the Judgment of The Honorable Denise L. Cote, U.S.D.J. that defendants, Fifth on the Park Condo, LLC, Eytan Benyanin, and Robert Ezrapour, are exempt from the Interstate Land Sales Full Disclosure Act's registration and disclosure requirements pursuant to the 100 Lot Exemption, 15 U.S.C. §1702(b)(1) and the Improved Lot Exemption, 15 U.S.C. §1702(a)(2), and dismissing Plaintiffs' claims for rescission of their purchase agreements, return of their deposits and interest, and payment of attorneys' fees, entered in this action on the 30<sup>th</sup> day of January, 2010 (Docket No. 23).

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Dated: February 22, 2010